

SECTION 1. PURPOSE.

The purpose of this Revenue Procedure is to set forth the place for filing elections under section 4942(h)(2) of the Internal Revenue Code of 1954 that are made other than by attaching a statement to the return required to be filed under section 6033.

SEC. 2. BACKGROUND.

.01 Section 4942(h)(2) of the Code provides that a private foundation may elect to treat any portion of a qualifying distribution, which is not by reason of section 4942(h)(1) treated as made out of the undistributed income of the immediately preceding taxable year, as made out of the undistributed income of a designated prior taxable year or out of corpus.

.02 Section 53.4942(a)-3(d)(2) of the Foundation Excise Tax Regulations provides that the election must be made either by filing a statement with the Commissioner during the taxable year in which the qualifying distribution giving rise to the election is made or by attaching a statement to the return filed with respect to the taxable year the qualifying distribution is made.

.03 When the statement is filed with the return, the place of filing is the place of filing the return which is in accordance with the instructions applicable to the return pursuant to section 1.6033-2(e) of the regulations. However, no regulations set forth the place of filing if the statement is not filed with the return.

SEC. 3. PLACE FOR FILING ELECTIONS WHEN NOT FILED WITH THE RETURN.

.01 Elections under section 4942(h)(2) of the Code, other than an election made by attaching a statement to the return, should be filed with the District Director of Internal Revenue for the key district in which is located the principal place of business or principal office of the organization filing the election. A list of such key District Directors and the area covered by each is set out in section 4.01 of Rev. Proc. 72-4, 1972-1 C.B. 706.

.02 The key District Director may acknowledge receipt of the filing of the election. However, such acknowledgement will not constitute a determination that the election has been timely filed.